

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 8098

BILL NUMBER: SB 525

DATE PREPARED: Jan 25, 2001

BILL AMENDED:

SUBJECT: Property Tax Assessment and Administration.

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FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Reassessment:* This bill provides that the next general reassessment of real property shall be completed on or before March 1, 2002, instead of March 1, 2001, and that general reassessments will occur every four years thereafter. It makes various amendments concerning the conduct of a general reassessment and the appeal process.

Amended Returns: This bill permits a claim on an amended personal property tax return of any adjustment or exemption that would have been allowable on the original return.

Exemptions: It raises from 50 to 150 the acreage of certain organizations eligible for exemption from property taxes.

Sales Disclosure: The bill directs the county fiscal body to establish a Sales Disclosure Fund and establishes procedures for administration of the fund.

Assessor Training: The bill also makes various amendments concerning assessor training and certification.

State Board: This bill creates a state agency, the Indiana Board of Tax Review (Indiana Board), to hear appeals from determinations of county property tax assessment boards of appeal and the State Board of Tax Commissioners (State Board). It provides that determinations of the Indiana Board are appealable to the Indiana Tax Court. The bill requires the Indiana Board to perform certain data analysis functions, and makes conforming amendments.

Refunds: The bill amends the procedure for claiming a property tax refund and the interest rate applicable to refunds.

Personal Property: This bill requires the State Board to conduct annual personal property assessment audits.

It makes certain items ineligible for the personal property tax reduction credit, and specifies eligibility for the credit in each county. The bill also repeals certain provisions concerning tax abatement and State Board employees.

Effective Date: Upon passage; July 1, 2000 (retroactive); January 1, 2001 (retroactive); July 1, 2001; January 1, 2002; July 1, 2002.

Explanation of State Expenditures: Reassessment: The bill specifies that the Indiana Board would be a party to appraisal contracts. The Indiana Board would have the responsibility to ensure that the contract form adheres to the contract standard set by the Board and that the contract adequately provides for the transmission of assessment data to the state.

Assessor Training: Under this provision, the State Board of Tax Commissioners is required to hold training sessions for new assessing officials, county assessors, and members of county property tax assessment boards of appeals in Marion County and at least four other locations at times that are sufficient to allow an opportunity for each official to attend the training.

The Tax Board currently holds a two-day training session in each of seven locations around the state after an election in which assessing officials are on the ballot. The sessions are currently held in Huntington, Valparaiso, Lafayette, Greenfield, Greencastle, Scottsburg, and Vincennes. In non-election years, the Tax Board holds sessions for new officials only in Indianapolis.

Under the proposal, the State Tax Board is required to offer enough continuing education sessions so that each level one and level two assessor may attend sessions every two years to maintain their certification. Training programs must include basic assessment administration and level one certification preparation.

Prior to 1999, the Tax Board held three one-half day continuing education sessions each year at each of the seven locations listed above. In 1999 and 2000, the Tax Board held the same number of continuing education sessions at the same locations but increased them from one-half day to two-day sessions. This amounted to 21 two-day continuing education sessions in 1999 and 2000.

The State Tax Board would also be required to give level one and level two assessor-appraiser examinations at times that coordinate with the training sessions conducted for new assessing officials, county assessors, or members of county property tax assessment boards of appeals. The State Board would be required to annually hold these examinations in at least four locations in addition to Indianapolis. Additionally, the Tax Board would be required to accommodate all individuals who wish to enroll at each examination session.

The State Tax Board could incur additional expenses for holding additional assessor-appraiser training sessions and certification examinations if necessary. These expenses would include staff travel and rent (if any) for meeting space. The actual impact would depend on the number and location of any additional meetings needed.

The bill requires the State Board to revoke the certification of any individual who commits fraud or misrepresentation with respect to the certification examination. The bill also requires the State Board to give notice to and hold a hearing to consider evidence before it may decide whether to revoke a certification.

Appeals: This bill contains several changes to the way in which the State Board of Tax Commissioners (State Tax Board) is required to conduct assessment appeals hearings and to the way that cases are presented to and

reviewed by the Tax Court.

A) Under this bill, the State Tax Board would not be required to actually assess property when the property's assessment is under appeal. The State Tax Board would be permitted to limit the scope of the appeal to issues raised in the appeal petition. Since the State Tax Board rarely assesses property under appeal, this provision merely codifies current practice and would have no real fiscal impact.

This bill would also require the State Tax Board to give notice of a hearing on a petition for review to the taxpayer and appropriate local assessing officials at least 30 days before the hearing date, rather than the 10-day notice required under current law.

B) The bill requires the State Tax Board to include separately stated findings of fact for all aspects of a State Tax Board determination. This provision codifies current practice by the State Tax Board in creating a record for Tax Court cases.

C) Under current law, the Secretary of the State Tax Board must transmit a certified transcript of the appeal proceedings to the court. This proposal would require the Secretary to submit a certified record of proceedings to the Tax Court when appeals are heard. The record must include copies of all notices, petitions, motions, pleadings, orders, briefs, requests, rulings, photos, and other written documents. The record must also include evidence received by or considered by the State Tax Board and information on a site inspection, if any. The State Tax Board already includes this information in the transcript of proceedings prepared under current law.

E) The bill would require that judicial review must be confined to the record of proceeding before the State Tax Board in Tax Court cases involving appeals of determinations concerning property tax assessments, deductions, exemptions, and credits. The Court would be permitted to receive additional evidence only if it relates to the validity of the determination and is needed to decide disputed issues of (1) improper constitution as a decision making body, (2) unlawfulness of the procedure or decision making process, or (3) new issues raised by the Indiana Board in its final determination. Judicial review would also be confined to issues raised before the State Tax Board except in cases where (1) an issue concerns notification of commencement of a proceeding or (2) interests of justice would be served by judicial resolution arising from a change in law after State Tax Board action is taken. This provision would transform the Tax Court from a trial/appeals court into solely an appeals court when considering State Tax Board cases.

All of the above provisions, taken together, could have several effects including:

- 1) A possible reduction the number of future cases appealed to the Tax Court.
- 2) A possible reduction in State Tax Board and Tax Court resources devoted to cases at the Tax Court level.

State Board: The State Tax Board currently consists of five divisions including the Appeals, Assessment, Budget, Operations, and Tax Review Divisions. The State Tax Board has 99 approved positions and their FY 2001 budget is set at \$6.2 M. This bill would redefine the duties of the State Tax Board and would also create the Indiana Board of Tax Review. Many of the current duties of the State Tax Board would simply be shifted to the new Indiana Board of Tax Review without any change to those duties. Both the State Tax Board and the Indiana Board of Tax Review would have some new or enhanced requirements. This analysis focuses on those changes.

State Tax Board: The State Tax Board would be required to establish a Personal Property Audit Division.

This division would be required to conduct audits on a sample of the returns filed throughout the state. The bill also stipulates that Audit Division employees may only perform duties related to the audit function. Although the State Tax Board performed personal property audits in the past, the former auditors have been assigned to other duties within the Assessment and Appeals Divisions. The State Tax Board would have to hire a new staff of auditors (or reassign former auditors and fill their current positions) to perform the required audits. The former audit staff consisted of 26 auditors, three supervisors, and an audit coordinator. The number of auditors needed for the new division depends on the size of the audit sample deemed necessary. The former auditors' positions ranged from PAT IV to PAT I. The starting annual salary for these positions currently ranges from \$23,000 to \$33,000.

The State Tax Board's Budget Division would be required to provide training in budget matters to employees of political subdivisions. The bill also stipulates that Budget Division employees may only perform duties related to the budget review and certification. The Budget Division might need to hire one or two new employees to perform the local training requirements of this bill.

The State Tax Board's Assessment Division would be required to provide training in assessment matters to assessing officials. The bill also stipulates that Assessment Division employees may only perform duties related to the assessments.

Indiana Board of Tax Review: The bill creates the Indiana Board of Tax Review, composed of four lay members. Each member of the Board and each employee of the Board would receive a salary and travel allowances.

The Board of Tax Review would establish the Appeals and Data Analysis Divisions. The Appeals Division would be quite similar to the current Appeals Division under the State Tax Board. This division would hear the same appeals as it currently does except for a potentially small number of appeals from certain State Tax Board final determinations. The Appeals Division could operate with its current employees. However, there is currently a backlog of 1,500 to 2,000 appeals. If the Board of Tax Review finds that additional employees are necessary to administer this function, there would be an increase in personnel expenditures.

The Data Analysis Division would compile a database including information from the Local Government Database, sales disclosure forms, personal property returns, real property assessment records, and exemption, deduction, and credit data. Much of this data is already available in machine-readable form. The division would have to electronically compile data from the sales disclosure forms and information on exemptions, deductions, and credits. The division would be required to conduct continuing studies of deductions, abatements, and exemptions. The Indiana Board would report on the studies to the Budget Committee and submit the report to the General Assembly every two years.

The division would also:

- Conduct continuing studies related to State Tax Board areas;
- Make periodic field surveys and audits of various documents useful in checking valuations and returns;
- Check valuations to serve as the basis for special reassessments;
- Conduct a coefficient of dispersion study for each township and county every two years;
- Conduct a sales assessment ratio study for each township and county every four years;
- Compute school assessment ratios; and
- Report the data obtained or determined to the Legislative Services Agency.

The Indiana Board of Tax Review would be required to conduct coefficient of dispersion and sales assessment ratio studies that apply to the 2002 assessment year.

The Data Analysis Division would require large initial expenditures for computer equipment, software, and possibly contractor services to create the database. The division would also need to hire a division director, programmer, systems analyst, and several employees to review and analyze the data.

The Indiana Board of Tax Review would be permitted to initiate a review to determine whether to order a special reassessment. If the variance in assessments in a township or county exceeds 20%, the Board of Tax Review would be able to contract for a special reassessment to correct the valuation. The cost of the special reassessment would be paid by the county.

Property Tax Appeal Representation: The State Board of Tax Commissioners is currently required to adopt rules governing the practice of representatives before the State Board of Tax Commissioners and the county property tax board of appeals. This bill would also require the Indiana Board of Tax Review to adopt the same rules. The bill would prohibit the State Tax Board and Indiana Board of Tax Review rules from restricting the ability of a representative to practice before the property assessment board of appeals, the State Tax Board, or the Indiana Board of Tax Review because the representative is not an attorney. Under the proposal, the rules also would not be able to restrict the admissibility of testimony based on the method by which the representative or a witness is compensated.

Personal Property: Under current law, the state pays a property tax credit equal to the net tax liability on the first \$12,500 of assessed value of a taxpayer's tangible personal property. This credit is commonly referred to as the Personal Property Tax Replacement Credit (PPTRC). Because of a change in the definition of assessed value that will take effect with the 2001 payable 2002 tax year, the current credit for \$12,500 AV will be based on \$37,500 AV instead. This scheduled change does not affect final tax bills or state costs in any way. For clarity, references to assessed valuation will be in 2000 terms.

The current credit is a property tax credit which reduces the net property tax payment of personal property tax payers. Each taxpayer is entitled to one credit for up to \$12,500 AV on each tax statement. A taxpayer receives one tax statement for each taxing district in which the taxpayer owns property and there are multiple taxing districts within each county. In CY 2000, the first year for which the credit was available, the state paid \$181.4 M in credits.

This bill would limit a taxpayer to one credit for up to \$12,500 AV per county. The taxpayer's assessed value within multiple districts in the county could be combined to reach the \$12,500 AV per county limit. Since this bill allows only one countywide credit per taxpayer, it would reduce the credit amount to which a taxpayer is entitled if the taxpayer is currently receiving PPTRC on a total of more than \$12,500 AV in multiple taxing districts within a county.

The bill would also eliminate PPTRC payments based on the assessed value of mobile homes, mobile houses, airplanes, and boats and trailers that are not subject to the Excise Tax.

Both PPTRC provisions would reduce the amount that the state pays for the credit. Data to help make an estimate of the fiscal impact of these provisions is currently being collected. This fiscal note will be updated as soon as the data collection and analysis is complete.

Explanation of State Revenues: ***Sales Disclosure:*** A sales disclosure form must be filed with the county

auditor any time real property is sold or transferred for valuable consideration, except a transfer to charity. Filers pay a \$5 fee of which \$1 is deposited in the state General Fund. According to the bill, counties would retain the entire \$5 filing fee beginning in FY 2002. The state received \$205,000 from sales disclosure filings in FY 2000.

Amended Returns: The State levies a one cent tax rate for State Fair and State Forestry. Any reduction in the assessed value base will reduce the property tax revenue for these two funds.

Explanation of Local Expenditures: ***Reassessment:*** The bill would require elected township assessors and county assessors (for a non-elected township assessor) to maintain an electronic data file of the parcel characteristics and parcel assessments in the form required by the Indiana Board of Tax Review. If a county's database does not currently contain the required data or if the county cannot provide the data with its current software, the county may face additional expenses in order to adapt to the requirements.

Appeals: Under the proposal, the county auditor would no longer notify all affected taxing units when the appealed AV constitutes at least 1% of the unit's gross certified AV from the preceding year.

Under current law, the county property tax assessment board of appeals must hold a hearing within 90 days after a preliminary conference if there are still disputed issues. For appeals filed after December 31, 2000, the Lake and Marion County appeals boards would have 180 days in which to hold the hearing.

Under current law, the taxpayer may present reasons for disagreement with the assessment at the hearing. The township or county assessor is required to defend the assessment decision on the issues raised by the taxpayer. The appeals board is then required to prepare written findings and render a decision within 60 days of the hearing. Under the proposal the Lake and Marion County boards of appeals would be required to prepare the written findings and render the decision within 120 days of the hearing.

Board of Appeals: This bill makes several changes to the composition of the property tax assessment board of appeals (appeals board). Currently, the county commissioners must appoint at least one certified level two assessor-appraiser to the appeals board. Under this proposal, the county commissioners' appointments would not have to be level two assessor-appraisers if the county assessor is a certified level two assessor-appraiser. The bill would prohibit a county or township employee, except for the county assessor, from serving on the appeals board in their county of employment. Additionally, the bill would allow a board member of one county to serve on the board of another county at the same time.

Some smaller Indiana counties may currently be having difficulty in filling vacancies on the appeals board with qualified persons under current law. The above changes may allow these counties to make all of the necessary appointments to the appeals board.

Refunds: Under current law, a taxpayer who prevails in a property tax appeal must file a refund claim with the county auditor. Interest at 6% per year is paid from the later of the date on which the payment was made or the date that it was due until the date of the refund. This bill would limit the interest if a taxpayer does not file the refund claim within 45 days of the date of the final determination entitling the taxpayer to a refund. The interest period would be cut off at the end of this 45-day period. The bill would also change the interest rate to 4% annually.

In general, property tax refunds reduce a future property tax distribution to the civil taxing units and schools to which the taxes were distributed. The reduction of interest due because of the lower interest rate would

result in smaller income reductions for the taxing units involved.

Assessor Certification: This bill requires that county assessors who achieve a level two assessor-appraiser certification are to be paid an additional \$1,000 per year. This provision would increase expenses for county assessor salaries by up to \$92,000 per year, statewide, plus salary-related expenses.

Employees of the county assessor and the township assessor who achieve a level two assessor-appraiser certification are to be paid an additional \$500 per year. This provision would increase salary expenses for county assessor employees and township assessor employees. The amount of the total increase depends on the total number of employees who become certified.

These new compensation levels for county assessors and their employees and for township assessor employees could increase county General Fund expenditures. The above salary expenditure increases may come from an increased property tax levy or from money saved by reducing other expenditures. If the county already levies its maximum levy, then it could not increase taxes and instead would have to use current resources to fund the salary increases.

Land Valuation Commissions: Under this proposal, the county fiscal body would be permitted to grant a per diem to the county and township assessors for each day that the assessors are engaged in service to the county land valuation commission. The per diem rate for each county is set by the individual county. The fiscal impact of this provision depends on whether or not the county grants a per diem to the assessors, the amount of time that the assessors spend on commission work, and the per diem rate in the county.

Explanation of Local Revenues: Reassessment: The state is under a current court mandate to complete the next reassessment so that it will be effective for taxes assessed in CY 2002 and paid in CY 2003. Current law specifies that the following reassessment would be effective three years later with future reassessments following on a four-year cycle. This bill puts the court-mandated date for the next reassessment into statute and effectively starts the four-year cycle immediately after.

Local units would receive the same amount of revenue regardless of the effective date of the general reassessment. It is the source of revenue that changes under reassessment. The only impact to local units would be to their bonding authority. Local civil units and school corporations are bound by a constitutional debt limit equal to 2% of AV. Delaying the effective date of reassessment would mean that local units would not receive an increase in bonding authority for one additional year.

This bill requires each appraiser or appraisal firm to submit data including complete parcel characteristics and parcel assessment data to the Indiana Board of Tax Review. The bill would also require the Department of State Revenue to withhold payments of homestead credit and property tax replacement credits (PTRC) attributable to the county Property Reassessment Fund from counties where the data is not timely submitted. PTRC payments on the county Property Reassessment Fund are equal to 20% of the gross property tax levy for the fund. In CY 2001, homestead credits are equal to 10% of homeowners' net tax liability for that fund. The homestead credit percentage changes to 4% in CY 2002 under current law.

Additionally, The State Tax Board would be authorized to approve a property tax levy for CY 2002 to pay for any increase in the estimated cost for reassessment.

Sales Disclosure: The county currently deposits \$4 of each \$5 sales disclosure filing fee into the county General Fund. This bill holds that the county would keep all \$5 of the fee and it would create a Sales

Disclosure Fund in each county to be used for administration of the form program and the training of assessing officials. Based on the amount of money forwarded as the state's share of the filing fees, it is estimated that counties received about \$820,000 from filers in FY 2000. Counties would also keep the current state share of the fee which amounted to about \$205,000 in FY 2000.

County Land Valuation Commissions: County land valuation commissions were abolished by HEA 1783 (97) in favor of having township assessors determine land values by November 1 preceding the effective date of a general reassessment. Beginning in 2002, this bill reestablishes the county land valuation commissions in a similar form as they existed before 1997. Each commission would consist of nine members including the county assessor, who serves as chairman, two township assessors, one real estate broker or salesperson, four individuals representing the four classes of land, and one individual representing a financial institution. One of the township assessor seats would be filled with the assessor of the township currently under review.

Under this provision, the commissions would determine the value of all land in the counties using State Tax Board guidelines. The county property tax assessment board of appeals would review the values and make any necessary modifications necessary to provide uniformity and equality. The Indiana Board could modify the value of the taxpayer's land or any other land in the county or adjacent county in order to provide uniformity and equality.

Since the county land valuation commissions would determine land values on a county-wide basis, it is assumed that there would be an initial high level of uniformity within the county. Under current law, if the township assessors determine land values, the values would probably be uniform within the township, but they may not be uniform county-wide. Better uniformity among property assessments would help to produce a fairer distribution of the property tax burden.

Amended Returns: Under current law, personal property taxpayers are able to file an amended return within six months of the original filing date, or the extended filing date if the taxpayer was granted an extension. This bill would allow taxpayers to claim adjustments and exemptions on the amended return that would have been allowable on the original return. This provision would have the effect of reducing assessed valuations on some personal property.

Currently, the amended return can be filed by November 15, or by December 14 if the original return was filed with an extension. These dates are after the time when the assessed values are used in preliminary budget computations. The State Tax Board must finalize all budget orders by February 15. If the assessed valuation of a taxing district is substantially reduced due to an exemption claimed on an amended personal property tax return, the affected units may have to revise their budgets and/or increase tax rates to account for the reduced valuation.

Exemptions: This bill would increase the exemption from property tax of 50 acres to 150 acres for real property owned by educational institutions and certain other entities. Additional exemptions reduce the assessed value tax base. This causes a shift of the property tax burden from the taxpayers receiving the exemptions to all taxpayers in the form of an increased tax rate. The actual fiscal impact depends on the amount of additional property that would qualify for an exemption under this proposal.

ERA Waiver: Currently, the ERA designating body may waive the filing of the statement of benefits if the taxpayer has made at least a \$10 M investment during the previous three years. This bill repeals the ability of the designating body to grant this waiver.

Appeals: Under current law, the county assessor may request that the county executive appeal a State Tax Board final determination if the adjustment causes a refund of the lesser of \$800,000 or 10% of the total tax levies of *all* of the units in the county. Under this proposal, the county executive would be required to appeal if the refund exceeds \$50,000 or 10% of *any* taxing unit's levy in the county. The request could also be made by an elected township assessor.

State Agencies Affected: State Board of Tax Commissioners; Department of State Revenue; Budget Committee.

Local Agencies Affected: County Assessors; Township Assessors; All local officials having reassessment duties; All local civil and school taxing units.

Information Sources: